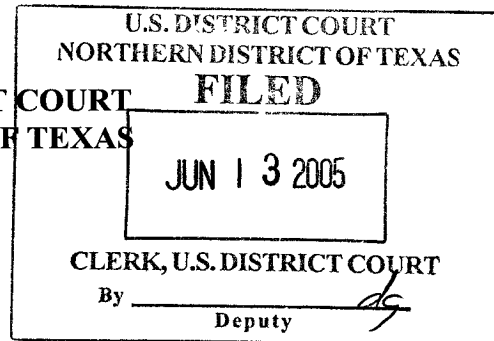


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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



PAUL ANTHONY LYNN, #1139264,

Petitioner,

v.

DOUGLAS DRETKE, Director
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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Civil Action No. 3:05-CV-0545-L

ORDER

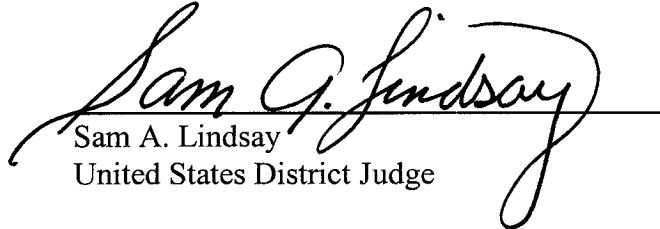
This is a habeas case brought under 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b), and an order of the court in implementation thereof, this action was referred to the United States magistrate judge for proposed findings and recommendation. On May 20, 2005, the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") were filed, to which Petitioner filed a response on May 26, 2005.

Petitioner seeks to challenge his conviction for possession of a controlled substance. He contends, among other things, that his conviction was obtained by the use of evidence gained pursuant to an unconstitutional arrest, search and seizure; and that he received ineffective assistance of counsel. On March 24, 2005, the magistrate judge issued a Notice of Deficiency and Order directing Petitioner to pay the filing fee or submit a request to proceed *in forma pauperis* within 30 days, or his petition would be dismissed for failure to prosecute. Petitioner did not comply with the magistrate judge's order. The magistrate judge concluded, therefore, that the petition should be dismissed without prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b). Petitioner

filed a response to the Report, maintaining that he erroneously sought relief in this court instead of the criminal court, and asked the court to disregard his application for habeas corpus.

After making an independent review of the pleadings, file and record in this case, and the findings, conclusions and recommendation of the magistrate judge, the court determines that the findings and conclusions of the magistrate judge are correct. They are therefore accepted as those of the court. Accordingly, Petitioner's petition for habeas corpus is hereby **denied**, and this action is **dismissed without prejudice** for want of prosecution pursuant to Fed. R. Civ. P. 41(b).

It is so ordered this 13th day of June, 2005.


Sam A. Lindsay
United States District Judge